

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
CAROLYN A. GRAY,

Plaintiff,

-against-

LOCAL UNION 1199,  
COLUMBIA PRESBYTERIAN MEDICAL CTR.,  
AND NEW YORK PRESBYTERIAN OF COLUMBIA  
AND CORNELL,

Defendants.  
-----X

**AFFIRMATION OF  
CÉSAR F. ROSADO**

07-CV-3238 (AKH) (GWG)

**ECF CASE**

I, César F. Rosado, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an associate of Levy Ratner, P.C., counsel for Defendant, 1199SEIU United Healthcare Workers East (“Union” or “1199SEIU”). I make this affirmation in support of 1199SEIU’s Motion to Dismiss or, in the Alternative, for Summary Judgment.

2. On or about March 30, 2007 the Plaintiff *pro se* in this matter, Carolyn Gray, filed a complaint against the 1199SEIU and New York Presbyterian Hospital (“Employer” or “Hospital”) in the Civil Court of the City of New York, Small Claims Part, that stated, “Notice of Claim. The Claimant asks Judgment in this court for \$3,000 together with interest and disbursements, on the following claim: Action to recover monies arising out of money owed to me from upgrading in emergency room. Date of occurrence: 05-01-2002.” Copies of the Complaint are attached hereto as Exhibits “A-C.”

3. On or about April 23, 2007, 1199SEIU, by its attorneys, removed the Plaintiff’s case to this Court.

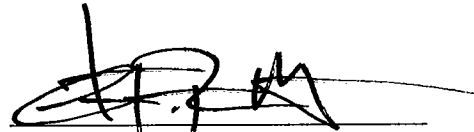
4. On or about May 30, 2007, I received a copy of a handwritten letter of the

Plaintiff dated "5/ /07" to Judge Hellerstein explaining her Complaint, together with other documents. In the letter, the Plaintiff alleges that the Union failed to represent her in connection to a wage increase given by the Hospital "to each worker that was upgraded except [to her]." Copy of the 5/ /07 letter of Gray to Judge Hellerstein and accompanying documents are attached hereto as Exhibit "D."

5. In her 5/ /07 letter, the Plaintiff included a letter from the Hospital that shows that the Plaintiff was an ER tech until April 7, 2002 and received any and all monies owed to her while she was an ER tech. See Exhibit "D," letter of May 21, 2003 of the Hospital to Gray.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 4, 2007  
New York, New York



César F. Rosado (CR3813)

**EXHIBIT A**

|  |                          |
|--|--------------------------|
| CIVIL COURT OF THE CITY OF NEW YORK<br>SMALL CLAIMS PART<br>170 EAST 121ST STREET<br>NEW YORK, NY 10035-3523 |                          |
| 1. Article Addressed to:   |                          |
| 2. Article Number  | 7176 6516 6010 2070 6971 |

**NOTICE TO DEFENDANT**  
**NOTICE OF CLAIM and SUMMONS TO APPEAR**  
This is the start of a lawsuit against you. It should not be ignored. Your default may have serious consequences.  
**YOU MUST BRING THIS NOTICE WITH YOU EACH TIME YOU APPEAR IN COURT ON THIS CASE.**  
**SUMMONS TO APPEAR**  
This claim is scheduled for a Hearing to be held in the Courtroom:

170 East 121 Street, 3rd Floor  
New York, New York 10035  
On Thursday, April 26, 2007 at 2:00 PM

You are hereby summoned to appear in Court on the date and time specified above and present your defense at the Hearing. If you wish, you may retain the services of an attorney to represent you. If you do not appear on the date and time specified above, you will be held in default and judgment will be entered against you. BY DEFAULT, JUDGMENT WILL BE ENTERED AGAINST YOU. YOU WILL BE RESPONSIBLE FOR PAYING THE JUDGMENT AND COSTS. IF YOU WANT TO DEFEND YOURSELF, YOU MUST BRING THIS NOTICE WITH YOU EACH TIME YOU APPEAR IN COURT ON THIS CASE. Only the Judge presiding at the Hearing can grant additional time for filing a defense. The date and time for the Hearing are subject to change without notice. Please check the date and time of the Hearing frequently.

DATED: March 14, 2007 CHIEF CLERK: JACK BAER

CASE TYPE SMALL CLAIM  
SMALL CLAIM, DAY  
4/26

CLAIMANT

CAROLYN A GRAY  
2360 FIRST AVE APT 15H  
NEW YORK, NY 10035

INDEX NUMBER

SC#  
192/2007-3

DEFENDANT

UNION LOCAL 1199  
310 WEST 43RD STR  
NEW YORK, NY 10036

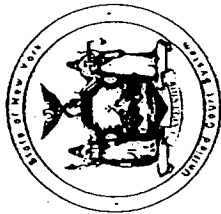
A Guide to Small Claims Court is available at the court listed above.

ESTA INFORMACIÓN ESTÁ DISPONIBLE EN ESPAÑOL EN LA CORTE

**NOTICE OF CLAIM**

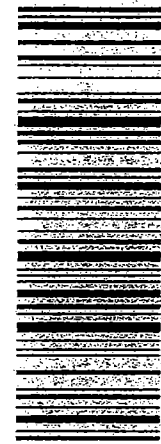
The Claimant asks Judgment in this court for together with interest and disbursements, on the following claim:

CLAIMANT'S CLAIM: The defendant owes the claimant the sum of \$1,000.00 for the use of a car without permission. The claimant is willing to accept a judgment of \$500.00. The claimant is willing to accept a judgment of \$500.00. The claimant is willing to accept a judgment of \$500.00.



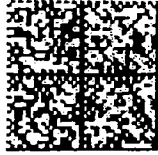
CIVIL COURT  
OF THE CITY  
OF NEW YORK  
SMALL CLAIMS  
170 EAST 171ST STREET  
NEW YORK, NY 10035-3823

**CERTIFIED MAIL**



7176 6516 6010 2070 6711

RETURN RECEIPT REQUESTED



02 1A  
0004315046 APR 03 2007  
MAILED FROM ZIP CODE 10036  
RITNEY BOWES  
\$ 04.64<sup>00</sup>

SCH  
192/2007-3

UNION LOCAL 1199  
310 WEST 43RD STR  
NEW YORK, NY 10036-

14

### PROOF OF CLAIM

If your defense is supported by a written contract or agreement, account books, receipts, itemized bills marked "Paid," cancelled checks, etc., you must produce them at the Hearing. If you rely on estimates for the future cost of repair, service or replacement, two different written itemized and signed estimates of the costs to be incurred are required. If possible, merchandise that is in dispute should be brought to court. Photographs may be an acceptable alternative in certain circumstances.

If you have a witness, he/she must be in court with you at the time and place indicated on this notice. You may have to pay an expert witness for his or her time. If a witness is unwilling to provide you with required evidence or to appear voluntarily, you may request the Clerk to issue a Subpoena for Records and/or a Subpoena to Testify, to compel someone to produce the records or to actually appear and testify. Subpoenas are issued by the Court without fee, but you will be required to pay a fee to the person on whom the Subpoena is served. Your request for subpoenas must be made to the Clerk before the scheduled date of the Hearing.

### REQUEST FOR ADJOURNMENT (CHANGE OF TIME OR DATE OF HEARING)

Proceedings are normally scheduled in the evening unless special circumstances warrant that the Clerk schedule the case for a daytime Hearing. If the Hearing is scheduled for the evening and this time would cause an "unreasonable hardship" for you, you or your representative should appear at the scheduled time and request that the action be re-scheduled for a daytime Hearing.

Only a Judge can grant an adjournment. The Clerk cannot grant any change in the scheduled date or time.

### RESULT OF NON-APPEARANCE (DEFAULT)

If you, the Defendant, fail to appear for a trial, an Inquest may be held. At the Inquest, the Claimant must prove his/her case to the satisfaction of the Arbitrator even though the Defendant is not present. Almost all Inquests will result in a Judgment in favor of the Claimant.

If the Claimant (the person who is suing) fails to appear, the case will generally be Dismissed.

### DEFENDANTS WHO ARE CORPORATIONS OR VOLUNTARY ASSOCIATIONS

Corporation defendants may appear by an attorney or by any authorized officer, director or employee of the corporation. See CPLR § 321 and CCA § 1809 (2). Voluntary Associations must appear by attorney.

[Bring this sheet with you at the time you come to Court]

*ESTA INFORMACIÓN ESTÁ DISPONIBLE EN ESPAÑOL EN LA CORTE*

**THIS IS THE START OF A LAWSUIT AGAINST YOU. THE INFORMATION PROVIDED WILL ASSIST YOU IN DEFENSE OF THE LAWSUIT.**

**BEFORE THE HEARING**

If this case involves damage to an automobile or other property covered by insurance, notify your insurance company of this Hearing. The insurance companies will often assign an attorney representative to be present at the Hearing at no cost to you if they are made aware of the case by the policy-holder.

**COUNTERCLAIM AND THIRD-PARTY CLAIMS**

If you have a claim against the Claimant, you may bring a "Counterclaim" as part of this lawsuit, for money only, up to \$3,000. Within five (5) days of receiving this Notice of Claim you should file a statement containing such Counterclaim with the Court. At the time you file such Counterclaim you must pay the Clerk a filing fee of \$3.00 plus the cost of postage. The Clerk will send the notice of your Counterclaim by First Class mail to the Claimant. The Counterclaim must include the amount of your claim and an explanation of the nature of your claim. You should be prepared to prove your Counterclaim on the day you come to Court for the Hearing.

If you fail to file the Counterclaim within the five (5) day period mentioned above, the law provides you with the right, nevertheless, to file your Counterclaim with the Clerk at least five (5) days before the scheduled hearing date. You may also give notice of your Counterclaim to the Court at the time of the Hearing. If you present your Counterclaim at this time, the Claimant may request and obtain an adjournment (postponement) of the hearing to a later date.

If you believe that a third party bears full or partial responsibility for the claim, you may be able to bring that party into the lawsuit as a "Third Party Defendant." Contact the Clerk promptly for information about filing a "third-party action."

**JURY TRIAL**

If you desire a jury, you must, at least one day before the day upon which you have been notified to appear, file with the Clerk of the Court a written demand for a trial by jury. At that time, you will have to make an affidavit specifying the issues of fact which you desire to have tried by a jury and stating that such trial is desired and demanded in good faith. You will have to pay a jury fee and also file an undertaking (a deposit in cash) to secure the payment of any costs that may be awarded against you. Under the law the court may award additional costs to the Claimant if you demand a jury trial and a verdict is rendered against you.

**DEMAND LETTER**

If this case is a "Consumer Transaction," you should have received a letter from the Claimant demanding payment, 10 days to 6 months prior to your receipt of this Notice of Claim. If you did not get such a letter, notify the Court at the time of your appearance.

**SETTLEMENT**

If you admit the claim:

a) and you are able to work out a settlement with the Claimant, a written agreement (Stipulation of Settlement) should be filed with the Court. This may be done on or before the date set for the Hearing. The document provided to the Court must include the SC number of your case, and the year.

b) but desire more time to pay and the Claimant is not willing to accept your plan for payment you must appear personally on the date set for the Hearing, tell the Court that you desire time to pay, and provide your reason(s) for desiring time to pay. At that time, with the aid of the Court, you may be able to reach agreement with the Claimant and enter into a written Stipulation of Settlement.

If neither side appears in court on the date scheduled for the Hearing, the case will be marked "DISMISSED, No Appearance Either Side."



## JUDGES AND ARBITRATORS

The Judge can only try a limited number of cases at each Court session. Most Trials are held before Arbitrators who are volunteer attorneys with at least five years of experience and thoroughly knowledgeable in the law. The decision of a Judge is subject to appeal. No appeal of an Arbitrator's decision is permitted because there is no official court transcript of Hearings held before Arbitrators.

## INSTRUCTIONS FOR ANSWERING THE CALENDAR CALL

IF YOU REPRESENT THE PLAINTIFF, YOU WILL HAVE TO HAVE YOUR CASE HEARD BY AN ARBITRATOR. ANSWER: YOUR NAME, READY TO GO TO COURT WHEN REQUESTED TO EXCHANGE THE AMOUNT, OR TO ADD A COUNTERCLAIM. ANSWER: YOUR NAME, APPLICATION FOR A JUDGMENT FOR THE PLAINTIFF. IF YOU ARE WILLING TO HAVE YOUR CASE HEARD BY AN ARBITRATOR, YOU WILL HAVE TO HAVE YOUR CASE HEARD BY THE JUDGE. ANSWER: YOUR NAME, READY TO GO TO COURT WHEN REQUESTED TO EXCHANGE THE AMOUNT, OR TO ADD A COUNTERCLAIM. IF YOU ARE WILLING TO HAVE YOUR CASE HEARD BY THE JUDGE, YOU WILL HAVE TO RETURN FOR TRIAL ON ANOTHER DATE.

## RESULTS OF THIS ACTION

If a Judgment is recovered against you, the law gives the Claimant certain rights to collect the Judgment:

- If you do not pay the judgment within thirty (30) days, the Marshal or Sheriff may execute against your property. This means that the Marshal or Sheriff can seize certain of your property and sell it to satisfy the judgment. The Claimant can compel you to come into court and be examined under oath as to your property, bank account and other assets, and may obtain a restraining order tying up your bank account.
- If you work for the Marshal or Sheriff, they may take a portion of your salary and turn it over to the claimant until the judgment is paid.
- If the claim was based on your ownership or operation of a motor vehicle, your driver's license and/or vehicle registration may be suspended.
- If you are licensed by any City or State agency, a complaint may be filed against you for non-payment of the judgment, and your license may be revoked or suspended.

Whenever a judgment has been rendered against a person, partnership, firm or corporation in other than its true legal name and that judgment has remained unpaid for thirty-five days after the judgment debtor has received a copy of the judgment, the judgment creditor shall be entitled to commence an action for the sum of the original judgment plus costs, reasonable attorney fees, and one hundred dollars (\$100.00). If you wish you may pick up a copy of the informational booklet, "A Guide to Small Claims" or "A Guide to Commercial Claims" at the Clerk's Office.



**EXHIBIT B**

CIVIL COURT OF THE CITY OF NEW YORK  
SMALL CLAIMS PART  
101 WEST 101ST STREET  
NEW YORK, NY 10025-1523

FILED 192/2007-1

FILED FOR REGISTRATION IN DISTRICT  
CTR.  
NEW YORK, NY 10033

7176 6516 6010 2070 6957

**NOTICE OF CLAIM**

The Claimant's Judgment in this Court of \$3000.00 together with interest and disbursements, on the following claim:  
**ACTION TO RECOVER MONIES ARISING OUT OF MONEY OWED TO ME FROM UPGRADING IN EMERGENCY ROOM. DATE OF OCCURRENCE: 05-21-2002**

**NOTICE TO DEFENDANT**

**NOTICE OF CLAIM and SUMMONS**

This is the start of a lawsuit against you. It should not be ignored. Your default may have serious consequences. **YOU MUST BRING THIS NOTICE WITH YOU EACH TIME YOU APPEAR IN COURT OR**

**SUMMONS TO APPEAR**

This claim is scheduled for a Hearing to be held in the Courtroom

170 East 171 Street, 5th Floor  
New York, New York 10035  
On Thursday, April 26, 2007 at 2:00 pm

You, or someone authorized to represent you, must appear and present your defense at the Hearing. If you wish, you may hire an attorney to represent you at your own expense. If you fail to appear, judgment will be entered against you. **YOU MUST BRING THIS NOTICE WITH YOU EACH TIME YOU APPEAR IN COURT OR** judgment. The Clerk cannot grant any change in the scheduled date or time.  
DATED March 30, 2007  
CLERK OF COURT JACK BAER

**CASE TYPE SMALL CLAIM**

**CLAIMANT**

4/26

CAROLYN GRAY

**INDEX NUMBER**

2360 FIRST AVENUE 16H  
NEW YORK, NY 10035-

192/2007-1

**DEFENDANT**

COLUMBIA PRESBYTERIAN MEDICAL CTR.  
622 WEST 168 ST  
NEW YORK, NY 10032-

A Guide to Small Claims Court is available at the court listed above

ESTA INFORMACIÓN ESTÁ DISPONIBLE EN ESPAÑOL EN LA CORTE

**EXHIBIT C**

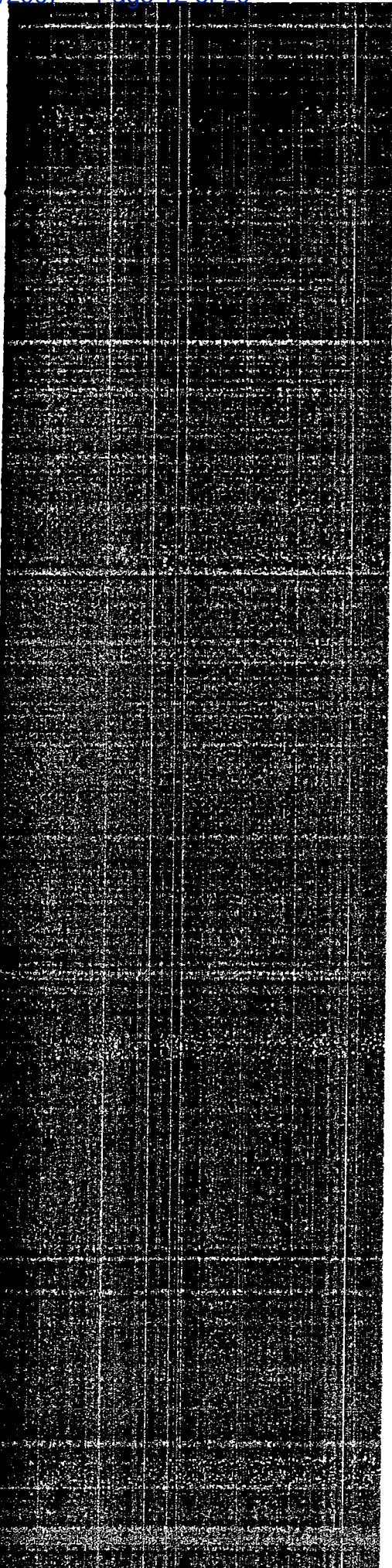
03 APR 07 CIVIL COURT OF THE CITY OF NEW YORK  
 SMALL CLAIMS PART  
 100 EAST FIRST STREET  
 NEW YORK, N.Y. 10002-1201  
 NEW YORK PRESBYTERIAN OF  
 COLUMBIA  
 AND CORNELL  
 622 WEST 168 ST  
 NEW YORK, NY 10032-  
 7176 8516 8010 2070 8964

**NOTICE OF CLAIM** 3000.00  
 The Claimant asks judgment in this court for  
 together with interest and disbursements, on the following claim:  
 ACTION TO RECOVER MONIES ARISING OUT  
 OF MONEY OWED TO ME FROM UPGRADING IN  
 EMERGENCY ROOM. DATE OF OCCURRENCE:  
 05-01-2002

**NOTICE TO DEFENDANT** **NOTICE OF CLAIM and SUMMONS TO APPEAR**  
 This is the start of a lawsuit against you. It should not be ignored. Your default may have serious consequences.  
**YOU MUST BRING THIS NOTICE WITH YOU EACH TIME YOU APPEAR IN COURT ON THIS CASE.**  
**SUMMONS TO APPEAR**  
 This claim is scheduled for a hearing to be held in the Courtroom:  
 170 East 121 Street, 3rd Floor  
 New York, New York 10035  
 On Thursday, April 26, 2007 at 2:00 pm  
 You, or someone authorized to represent you, must appear and present your defense at the hearing. If you wish, you may retain the services of an attorney to represent you at your own expense. IF YOU FAIL TO APPEAR, JUDGMENT WILL BE ENTERED AGAINST YOU BY DEFAULT. EVEN THOUGH YOU MAY HAVE A VALID DEFENSE. Only the Judge presiding at the hearing can grant an adjournment. The Clerk cannot grant any change in the scheduled date or time.  
 DATED March 30, 2007 CHIEF CLERK JACK BAER

CASE TYPE: SMALL CLAIM  
 SMALL CLAIM, DAY  
 4/26  
 INDEX NUMBER  
 SCH  
 192/2007-2  
 CLAIMANT  
 CAROLYN A GRAY  
 2360 FIRST AVENUE 16H  
 NEW YORK, NY 10035-  
 DEFENDANT  
 NEW YORK PRESBYTERIAN OF COLUMBIA  
 AND CORNELL  
 622 WEST 168 ST  
 NEW YORK, NY 10032-  
 A Guide to Small Claims Court is available at the court listed above

ESTA INFORMACIÓN ESTÁ DISPONIBLE EN ESPAÑOL EN LA CORTE



**EXHIBIT D**

Case no 07CV3238  
(AKH)

(1)

Dear Honorable Judge Hellerstein,  
My name is Carolyn Gray.  
I am a 65 year old Grandmother  
& mother of 5 children. I am also  
newly retired from Columbia Presbyterian  
Clerical mentioned ago. While working  
in the emergency room, I was offered  
an up grading program, I took it  
and was given a Certificate, also a  
change of name from nurse aid to  
emergency room technician, also a lump  
sum of money \$3000. Dollars was given  
to each worker who was upgraded  
except for me. I inquired about  
my money and was told by Mrs  
Kathy White who worked in  
human resources that a mistake  
was made in the computer I  
should get my \$3000. Shortly see  
a Mr Leroy Simmens. Asking him  
about the money, he had no answer  
for me, he said he didn't know  
why I didn't get paid, make  
it because you moved to another unit.  
He was very annoyed as I questioned  
him. I decided to seek help from my  
union delegates Mr Tony Horwell &  
Mr Fernando Wilson. Both men  
were hostile toward me and very  
intimidating toward me. OVER →



Case No 07CV3238  
(AKH)

(2)

Getting no where with them, I went to the leader of local 1199 Mr Dennis Rivera to his Manhattan office. One of many trips I was told many times he was in a meeting. I just stepped out of his office, or he's not seeing anyone today, he's on vacation, I was told by his secretary to leave the letter with her. I also mailed him letters. Not one time did Mr Rivera acknowledge the fact, I'd been to his office, sent letters to him, left letters at his office.

Not a phone call from him or a letter. Nothing stating he would help me. Honorable Judge Hellerstein I am a hard worker, most emergency room work is done while standing, I've worked too long & too hard to just let other people take money from me that is rightfully mine. See attached letter to Mr. Dennis Rivera.

Tom Prose

Sincerely

Carolyn Gray  
2360 First Ave  
New York City  
Zip 10035 Apt 16H  
New Number 13472658125

Case No 07CV3238

(AKH)

Columbia Presbyterian Medical Center  
622 West 168th Street  
New York, NY 10032  
Tel 212 305-2500

**New York-Presbyterian**

The University Hospitals of Columbia and Cornell

May 21, 2003

The ANSWER I Received From  
Human Resources



Carolyn Gray  
2360 1<sup>st</sup> Avenue, 16 H  
New York, NY 10035

Dear Carolyn:

This letter is to inform you that an investigation was conducted on your behalf.

You stated that when you worked in the Emergency Room from 3/12/90 through 4/7/02, you should have been upgraded from a Sr. Nursing Attendant to an Emergency Room Technician as per an agreement signed by the Hospital and the Union in November, 1994.

After reviewing your files, it was determined that although your title in the system was never changed, you were upgraded in salary to that of an Emergency Room Technician. Therefore, there are no monies owed to you. However, your title will be corrected in the system for the time you worked as an Emergency Room Technician.

If you have any further questions, please feel free to contact me at (212) 305-1837.

Sincerely,

Stacie M. Williams  
Manager, Human Resources

cc: employee file

CASE NO 07CV3238

Case No. 07-cv-3238  
Letter To Mr. Dennis Rivera  
(A \* H)

Dennis Rivera  
Local Union 1199  
310 West 43<sup>rd</sup> St.  
New York, NY 10036-6977

Dear Mr. Rivera,

My name is Carolyn Gray, I have been a member of Union 1199 for over 14 years and I am presently employed at Columbia Presbyterian Hospital.

I am writing you because I am owed back pay for two years. I have attempted to get this money owed me but to no avail. The money that is owed me is approximately three thousand dollars (\$3000.00); this amount was given to all employees that worked in the emergency room unit in 2002. The specific title of those who received funds was Emergency Room Technician.

I worked in the emergency room for 13 years and I took a course offered by Columbia Presbyterian Hospital, which certified me as an emergency room technician. The Department of Education, Standards and Research Department of Emergency Services offered the course in October 1996 and it was instructor was Mrs. Meg Barry. I completed and passed the course and was issued a Certificate of completion on December 28, 1996. See the attached.

The completion of the course enabled me to be upgraded from nurse's aid to Emergency Room Technician. I contracted Ms. Cathy White, in human resources, regarding the back pay and she assured me the problem would be resolved. Ms. White said that the mistake was made because the computer had me listed incorrectly I was listed as a nurse's aid and I should have been listed as an emergency room technician. In the interim she referred me to Mr. Leroy Simmons who informed me I was not entitled to the funds because I transferred to another unit. When I told him about the case of another employee who also transfer to another unit but still received the funds he made no comment. In addition to Mr. Simmons I spoke to Mr. Fernando Wilson who informed me that what ever decision Mr. Simmons made he would concur. I also sought help from Tony Howell, Joyce Neal and Stacy Williams, but they have not gotten back to me nor have they filed a grievance on my behalf.

Mr. Rivera I would appreciate it very much if you would help me resolve this problem, I have spoken to a number of unit delegates but they not been any help to me.

Thank you in advance  
Carolyn Gray

c/ Steve Kramer, Betty Hughly  
Leroy Simmons, Fernando Wilson,  
Joyce Neal, Tony Howell  
Stacy Williams

*Carolyn Gray*



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Carolyn Gray X

AFFIRMATION OF SERVICE

-against-

LOCAL UNION 1199 / Columbia Presbyterian Medical Center New York  
Presbyterian of Columbia  
+ ESPINOSA

I, Carolyn Gray, declare under penalty of perjury

that I have served a copy of the attached To Epstein Becker + Green P.C.  
Attorney at Law at Location 250 PARK AVE New York 10177-1212

upon W. S. Levy Ratner P.C. Attorneys At Law  
whose address is 80 Eighth Ave New York City 10011-5126

DATED: 5/22/07, New York  
\_\_\_\_\_, 2007

Carolyn Gray  
Signature  
2360 First Ave  
Address  
New York City 10035  
City, State & Zip Code  
#16-H

Docket No 07c3238 (AKH)

**DEPARTMENT OF EDUCATION, STANDARDS AND RESEARCH  
DEPARTMENT OF EMERGENCY SERVICES**

The Presbyterian Hospital in the City of New York  
625 West 168th Street  
New York, NY 10032

# Certificate of Completion

This certifies that

Carolyn Gray

has satisfactorily completed

**ER Tech Program**

December 28, 1996

Date



Charles L. Ox

Authorizer's Signature

Gwendolyn Merritt MD

Authorizer's Signature